



Steven W. Troxler
Commissioner

North Carolina Department of Agriculture
and Consumer Services
Veterinary Division

R. Douglas Meckes, DVM
State Veterinarian

June 15, 2017

Ruth Ann Geer-Lloyd, Registered Agent
Outer Banks SPCA
Dare County Animal Shelter
P. O. Box 2477
Manteo, NC 27954

NOTICE OF CIVIL PENALTY

**Re: CIVIL PENALTY ASSESSMENT FOR VIOLATIONS OF TITLE 02 N. C.
ADMINISTRATIVE CODE, CHAPTER 52J, SECTIONS .0101(5) and .0210(d).**

AWS-CP-2017-7

Facility: Dare County Animal Shelter, License #5

Dear Ms. Geer-Lloyd:

Pursuant to N. C. General Statute § 19A-40, I am issuing this notice to you that the Outer Banks SPCA is assessed a civil penalty of \$500.00 as provided in the enclosed Notice of Violations.

With regard to the civil penalty, within 60 days from the date of receipt, you must do one of the following:

1. Pay the civil penalty assessment; or
2. File a written petition for a contested case hearing with the N. C. Office of Administrative Hearings to appeal the penalty assessment.

Pursuant to N. C. General Statute § 150B-22, either party to a dispute may initiate informal settlement negotiations at any time. To negotiate a settlement of this assessment, you may contact me by telephone at (919) 707-3280. Settlement offers do not extend the 60-day deadline for payment or filing of a contested case petition.

Additional information about your options is provided below:

PAYMENT

To pay the penalty, please send your payment by check or money order made payable to the North Carolina Department of Agriculture and Consumer Services to:

North Carolina Department of Agriculture and Consumer Services
Dr. Patricia Norris
Director, Animal Welfare Section
1030 Mail Service Center
Raleigh, NC 27699-1030

APPEAL

If you file a contested case petition, it must be in writing and in the form prescribed by N.C. General Statute § 150B-23. The petition must be accompanied by a filing fee of twenty dollars (\$20.00) payable to the N.C. Office of Administrative Hearings ("OAH"). Should you have any questions about what the fee would be for your case, please contact the OAH Clerk's Office at 919-431-3000. Payment can be made by cash, money order, certified check or check drawn on an attorney's trust account. Make checks payable to: Office of Administrative Hearings. File the petition and one copy with:

Office of Administrative Hearings
6714 Mail Service Center
Raleigh, NC 27699-6714

Any questions about filing a petition may be directed to the Clerk of OAH by telephone at 919-431-3000. You must serve NCDA&CS by mailing a copy of the petition to:

Ms. Tina Hlabse
North Carolina Department of Agriculture and Consumer Services
Registered Agent and General Counsel
1001 Mail Service Center
Raleigh, NC 27699-1001

Payment of the penalty will not foreclose further enforcement action against you for any new violation. If the violations which resulted in the assessment are of a continuing nature, NCDA&CS reserves the right to assess additional civil penalties in the future or take other enforcement action against you.

Your attention to this matter is appreciated.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Patricia Norris', with a stylized flourish at the end.

Patricia Norris, DVM MS
Director, Animal Welfare Section

Attachment: Notice of Violations, Assessment of Civil Penalty

cc: R. Douglas Meckes, DVM, State Veterinarian
Tina Hlabse, General Counsel, NCDA&CS
Joe Reardon, Assistant Commissioner, NCDA&CS
Christopher R. McLennan, Assistant Attorney General

STATE OF NORTH CAROLINA
COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT
OF AGRICULTURE AND CONSUMER
SERVICES, VETERINARY DIVISION
ANIMAL WELFARE SECTION

IN THE MATTER OF)	NOTICE OF VIOLATIONS
)	ASSESSMENT OF CIVIL PENALTY
OUTER BANKS SPCA)	
OPERATOR OF)	FOR VIOLATIONS TITLE 02 N. C.
DARE COUNTY ANIMAL SHELTER)	ADMINISTRATIVE CODES
)	52J .0101(5) and .0210(d).
)	

Acting pursuant to N.C. Gen. Stat. §19A-40, Dr. Patricia Norris, Director, Animal Welfare Section ("AWS"), North Carolina Department of Agriculture and Consumer Services ("NCDA&CS") makes the following:

FINDINGS OF FACT

1. At all times pertinent to this matter, Dare County Animal Shelter operated by the Outer Banks SPCA ("the shelter") was an animal shelter, registered pursuant to N.C. General Statute §19A-26.
2. On May 6, 2017, AWS received a complaint concerning the Dare County Animal Shelter operated by the Outer Banks SPCA and the care of an animal housed at the shelter. Based on the information within this complaint, AWS opened an investigation. The investigation included review of the information contained in the complaint, a site visit by AWS Animal Health Technician Lisa Carlson ("Inspector Carlson"), interviews with the Shelter Director and shelter staff, observation of Smokey Roe (the dog referenced in the complaint), review of the relevant shelter documentation and a second site visit by Inspector Carlson to the shelter.
3. On May 11, 2017, Inspector Carlson conducted a site visit at the shelter as part of the investigation. At that time, she interviewed the Shelter Director and shelter staff concerning this complaint. The staff acknowledged that Smokey Roe had developed a sore on the skin of his scrotum and that the staff had contacted the shelter veterinarian who recommended a treatment regime.
4. On May 11, 2017, Inspector Carlson reviewed the shelter's documentation of veterinary care. The review revealed that the medication log for Smokey Roe was missing information such as treatments, date, time, description of medication (including name and dosage) and initials of person administering the medication.
5. Inspector Carlson's review of the relevant shelter documentation revealed that Smokey Roe had been at the shelter for more than 15 days, and there was no record of a current rabies vaccination. Inspector Carlson reminded the Shelter Director of 02 NCAC 52J .0210(d) which relates to the requirements for rabies vaccination of animals housed in the shelter. Inspector Carlson observed the Shelter Director administer a rabies vaccination to Smokey Roe without incident.
6. Inspector Carlson returned to the shelter on May 25, 2017 for a second site visit. Inspector Carlson reviewed the shelter's documentation of the animals housed on the premises that day. Her review revealed that 3 animals that had been housed at the shelter for more than 15 days had not yet received a rabies vaccination. The animals were A35305098 "Marty," A34989730 "Kirby," and A35316360

"Elmer Fudd."

- (a) The Shelter Director explained that, in his opinion, "Marty" had a medical condition that precluded administration of the rabies vaccination. Marty had been administered other vaccinations at the time of intake and the notation "very skinny, full of matts (sic)" was made on the Health Exam form. The FIV/FELV test on May 17, 2017 was negative. There was no additional documentation of veterinary care being provided or monitoring of the condition of this animal. There was no documentation from a licensed veterinarian that this animal's condition precluded the administration of a rabies vaccination and no documentation by a licensed veterinarian that this animal was suffering from a "medical condition" that precluded such vaccination. The Shelter Director added medical notes to the front page of this record at the time of the site visit on May 25, 2017.
- (b) Inspector Carlson observed the Shelter Director administer rabies vaccinations to "Kirby" without incident during the site visit on May 25, 2017.
- (c) The Shelter Director said he would administer the rabies vaccination to "Elmer Fudd" later that afternoon once he had cleared up some confusion he had with some of this animal's paperwork. There were ambiguities in the record from the facility from which the shelter had taken this animal as to the rabies vaccination status of "Elmer Fudd." These ambiguities were present at the time of intake and the shelter had not yet resolved the matter.

CONCLUSIONS

As a result of this investigation, the North Carolina Department of Agriculture and Consumer Services, Veterinary Division, Animal Welfare Section, finds that the shelter either by act or omission, violated the provisions of Title 02 North Carolina Administrative Codes 52J .0101(5) and .0210(d).

(See Appendix for text of cited General Statutes and Administrative Code)

CIVIL PENALTIES


As required by N.C. Gen. Stat. § 19A-40, in determining the amount of the civil penalty, I have considered the degree and extent of harm caused by the violations listed above.

Accordingly, the Outer Banks SPCA as operator of the Dare County Animal Shelter is assessed a civil penalty for the following violations:

- 1) \$100.00 for violation of Title 02 North Carolina Administrative Code 52J .0101(5) noted on May 11, 2017; and
- 5) \$400.00 for 4 violations of 02 North Carolina Administrative Code 52J .0210(d) noted on May 11, 2017 (1 violation) and May 25, 2017 (3 violations).

\$500.00 TOTAL AMOUNT ASSESSED

June 15, 2017
Date



Patricia Norris, DVM, MS
Director, Animal Welfare Section
North Carolina Department of
Agriculture & Consumer Services

Appendix

RELEVANT LAWS AND REGULATIONS

§ 19A-40. Civil Penalties.

The Director may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Director shall consider the degree and extent of harm caused by the violation. The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1995, c. 516, s. 6; 1998-215, s. 3.)

02 NCAC 52J .0101 RECORDS; ANIMAL SHELTERS, ETC.

Operators of all animal shelters, pet shops, public auctions, and dealers shall maintain records on all dogs and cats showing the following:

- (5) record of veterinary care including treatments, immunization and date, time, description of medication (including name and dosage), and initials of person administering any product or procedure.

History Note: Authority G.S. 19A-24;
Eff. April 1, 1984;
Amended Eff. January 1, 2005; April 1, 1985.

02 NCAC 52J .0210 VETERINARY CARE

(d) All animals in a licensed or registered facility shall be in compliance with the North Carolina rabies law, G.S. 130A, Article 6, Part 6. However, no shelter shall be disapproved following inspection or otherwise cited for failure to inoculate any dog or cat known to be less than 12 weeks old or until such animals have been in the shelter at least 15 days

History Note: Authority G.S. 19A-24;
Eff. April 1, 1984;
Amended Eff. March 23, 2009; January 1, 2005.